IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

WP(C).No. 22055 of 2007(A)

PETITIONERS:
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1. MRS.NAJUMUNISA,AGED 34 YEARS,
W/O.MUHAMMED KASIM, PALATHULI, PALAKKAD,
NOW RESIDING AT HOUSE NO.0010,
NORTH HOUSING UNIT, SELVAPURAM, COIMBATORE.

2. XPS CARGO SERVICES, 514-G, E.K.THOTTAM,
MAIN SATHY ROAD, NEAR RAILWAY OVERBRIDGE,
LAKSHIPURAM GANAPATHY, COIMBATORE-641 006,
REPRESENTED BY ITS AUTHORISED SIGNATORY AND
ZONAL MANAGER, R.S.GOUTAM.

BY ADV. SRI.M.G.KARTHIKEYAN
SRI.NIREESH MATHEW

RESPONDENTS:
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1. THE EXCISE INSPECTOR,
EXCISE RANGE OFFICE, PALAKKAD.

2. THE ASST. EXCISE COMMISSIONER, PALAKKAD.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN,J

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W.P.(C).No.22055 of 2007

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Dated this the 31st day of July 2007

JUDGMENT

The first petitioner's vehicle which was carrying cargo on behalf of the second petitioner was seized on allegations of transportation of illicit spirit. The petitioner earlier approached this Court filing W.P.(C).No.15248/2007 and by Ext.P1 judgment, I had, in that writ petition, directed the second respondent to give interim custody of vehicle to the petitioner on his furnishing bank guarantee for the value of the vehicle as per Ext.P1 judgment. The second petitioner furnished bank guarantee in its own name which was not accepted by the respondents as the vehicle is owned by the petitioner and the offence is charged against the husband of the first petitioner, who was the driver of the vehicle. Therefore, the bank guarantee produced by the second petitioner was not accepted which was intimated by Ext.P2 letter. In the above circumstances the petitioner now submits that the second petitioner may be permitted to deposit the amount covered by Ext.P2 in its own name and the second

respondent may be directed to complete the confiscation proceedings within a stipulated period.

I have heard the learned Government Pleader also. In the facts and circumstances of the case the writ petition is disposed of with the following directions:

The second petitioner shall deposit the amount covered by Ext.P2 in its own name as security for the value of the vehicle to be adjusted in the event of ordering confiscation of the vehicle. The first petitioner shall file an undertaking to the effect that if ultimately the vehicle is ordered to be released, she would not claim refund of the amount deposited by the second petitioner as directed above. In the event of the first petitioner being exonerated in the confiscation proceedings the amount deposited shall be returned to the second petitioner. The second respondent shall complete the confiscation proceedings within six months from the date of receipt of a copy of this judgment.

S.SIRI JAGAN, JUDGE

dvs